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NOTICE OF ALLOWANCE AND FEE(S) DUE

20277

7590

04/03/2009

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

EXAMINER

CHU, HELEN OK

ART UNIT

PAPER NUMBER

1795

DATE MAILED: 04/03/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,660	08/11/2003	Shinichi Takahashi	50195-519	4069

TITLE OF INVENTION: FUEL CELL SYSTEM AND METHOD FOR REMOVAL OF WATER FROM FUEL CELLS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	07/06/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** **Mail Stop ISSUE FEE**
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

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Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

20277 7590 04/03/2009

MCDERMOTT WILL. & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/637,660 08/11/2003

Shinichi Takahashi

50195-519

4069

TITLE OF INVENTION: FUEL CELL SYSTEM AND METHOD FOR REMOVAL OF WATER FROM FUEL CELLS

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nonprovisional	NO	\$1510	\$300	\$0	\$1810	07/06/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
CHU, HELEN OK	1795	429-021000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB-122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB-47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____
Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.**

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MCDERMOTT WILL & EMERY LLP 600 13TH STREET, N.W. WASHINGTON, DC 20005-3096			ART UNIT	PAPER NUMBER

1795

DATE MAILED: 04/03/2009

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 496 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 496 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability**Application No.**

10/637,660

Applicant(s)

TAKAHASHI, SHINICHI

Examiner

Helen O. Chu

Art Unit

1795

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1/8/09.
2. ☒ The allowed claim(s) is/are 1,3-6 and 20-31.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date ____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date ____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other ____.

DETAILED ACTION

1. The Applicants' amendments were received. Claims 1, 5, 6 have been amended.
2. The text of those sections of Title 35, U.S.C. code not included in this action can be found in the prior Office Action.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Bernard Codd on 3/27/2009.

The application has been amended as follows:

In claims 1, 5, 6, line 5; delete "a" between "from" and "reaction" and insert "the"

In claims 1, 5, 6, line 5; insert "the" in between "between" and "fuel"

In claims 1, 5, 6, line 6; delete "forming" between "gas" and "water" and insert ", which forms the"

In claims 1, 5, 6, line 16 and line 20; insert "the" between "electrolyze" and "water"

In claims 1, 5, 6, line 4; insert "water as a by-product of a reaction between fuel gas and oxidant gas,"

In claim 20, line 3 and 4; delete "having at least one unit cell,

a DC power supply comprising at least one of a generator and battery, and"
insert "comprising

water as a by-product of a reaction between fuel gas and oxidant gas,
a plurality of unit cells, each unit cell including a membrane electrode assembly
to generate electricity from the reaction between the fuel gas and oxidant gas, which
forms the water as a by-product, the membrane electrode assembly comprising a
polymer electrolyte membrane and two electrodes on both sides of and adjacent to the
polymer electrolyte membrane,

a fuel cell stack anode electrically connected to one of the two electrodes, and
a fuel cell stack cathode electrically connected to the other of the two electrodes,
wherein each unit cell is immediately adjacent another unit cell;

a rechargeable battery electrically connected to the fuel cell stack in a parallel
connection in which an anode of the battery is electrically connected to the anode of the
fuel cell stack, and a cathode of the battery is electrically connected to the cathode of
the fuel cell stack, the battery supplies current to the unit cells of the fuel cell stack
through the parallel connection to allow the unit cells to electrolyze the water therein;
and

In claim 20, last line; delete "DC power supply" insert "rechargeable battery"

In claim 21, line 2; delete "said generator or"

In claim 24, line 2; delete "at least one or more" insert "said plurality of"

Allowable Subject Matter

4. The following is an examiner's statement of reasons for allowance:

Claims 1, 3-6, 20-31 are allowed.

The instant claims are to a fuel cell system which generates electricity by supplying fuel gas and oxidant gas to a fuel cell stack comprising a fuel cell stack having a plurality of unit cells forming water as a by-product of a reaction between fuel gas and oxidant gas, a rechargeable battery connected in parallel to the fuel cell in order to supply current to electrolyze water in the unit cell. In addition the fuel cell system comprises a controller programmed to determine whether or not the fuel cell stack is generating electricity, and supply current to the unit cells of the fuel cell stack from the battery through the parallel connection to allow the unit cells to electrolyze the water therein, when generation of electricity by the fuel cell stack is terminated, and supply current from the unit cells through the parallel connection to charge the battery when the fuel cell stack generates electricity.

The most pertinent prior art has been addressed in the prosecution is US Patent 6,926,982 to Ito et al. and US Patent 4,839,247 to Levy et al.

The Levy et al. reference discloses a fuel cell system comprising an electrolysis cell connected in parallel to a fuel cell unit and solar panels. When operating in fuel cell mode, the fuel cell unit generates water as a by-product from reactions of oxidant from the cathode and fuel from the anode. The electrolyte is sandwiched between the electrodes for ion-permeation. When operating in electrolysis mode, the electrolysis cell provides hydrogen and oxygen for later consumption for the fuel cell stack. The solar panels provide electricity to the electrolysis cells for water splitting. However, the Levy

et al. reference does not teach and offers any support for modifying the fuel cell system to comprise a rechargeable battery connected in parallel to the fuel cell in order to supply current to electrolyze water in the unit cell. In addition, the Levy et al. reference does not teach and offers no support for modifying the fuel cell system to comprise a controller programmed to determine whether or not the fuel cell stack is generating electricity, and supply current to the unit cells of the fuel cell stack from the battery through the parallel connection to allow the unit cells to electrolyze the water therein, when generation of electricity by the fuel cell stack is terminated, and supply current from the unit cells through the parallel connection to charge the battery when the fuel cell stack generates electricity.

The Ito et al. reference discloses a fuel cell unit in parallel connection to an electrolysis cell. The fuel cell provides electricity and the electrolysis cell requires lower energy to split a water molecule into hydrogen and oxygen for later consumption in the fuel cell. The Ito et al. reference further discloses a controlling method of uneven distribution of a current or temperature on the electrode surface so that by adjusting the humidity or oxygen hydrogen concentration, the performance of the cell can be improved. However, the Ito et al. reference further teaches against using batteries so that fewer components can be provided resulting in cost reduction. In addition, the Ito et al. reference does not teach or offers any support for modifying the fuel cell system to comprise a rechargeable battery connected in parallel to the fuel cell in order to supply current to electrolyze water in the unit cell. In addition, the Ito et al. reference does not teach the fuel cell system comprises a controller programmed to determine whether or

not the fuel cell stack is generating electricity, and supply current to the unit cells of the fuel cell stack from the battery through the parallel connection to allow the unit cells to electrolyze the water therein, when generation of electricity by the fuel cell stack is terminated, and supply current from the unit cells through the parallel connection to charge the battery when the fuel cell stack generates electricity.

Conclusion

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen O. Chu whose telephone number is (571) 272-5162. The examiner can normally be reached on Monday-Friday 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HOC

/PATRICK RYAN/
Supervisory Patent Examiner, Art Unit 1795